



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MAY - 2 2011

Neil Reiff
Sandler, Reiff & Young, P.C.
300 M Street, S.E.
Suite 1102
Washington, D.C. 20003

RE: MUR 6376
Lori Edwards
Lori Edwards Campaign Committee
and Lori Edwards, in her official
capacity as treasurer

Dear Mr. Reiff:

On September 23, 2010, the Federal Election Commission notified your clients, Lori Edwards and Lori Edwards Campaign Committee and Lori Edwards, in her official capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to your clients at that time.

Upon further review of the allegations contained in the complaint and information supplied by you, the Commission, on April 26, 2011, voted to dismiss the allegations that Lori Edwards violated 2 U.S.C. § 441b and Lori Edwards Campaign Committee and Lori Edwards, in her official capacity as treasurer, violated 2 U.S.C. §§ 434(b) and 441b. The Factual and Legal Analysis, which more fully explains the Commission's decision, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

If you have any questions, please contact Elena Paoli, the attorney assigned to this matter, at (202) 694-1548.

Sincerely,

Roy Q. Luckett
Acting Assistant General Counsel

Enclosure: Factual and Legal Analysis
cc: Lori Edwards

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Lori Edwards
 Lori Edwards Campaign Committee MUR: 6376
 and Lori Edwards, in her official capacity
 as treasurer

I. GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Charles A. Flint II. *See* 2 U.S.C. § 437g(a)(1).

II. FACTUAL AND LEGAL ANALYSIS

A. Facts

Lori Edwards is the Polk County, Florida, Supervisor of Elections, an elected, non-partisan position that she has held since 2000. In 2010, Edwards was also the Democratic nominee for the congressional seat that represents most of Polk County and portions of Hillsborough and Osceola Counties. Polk County is an incorporated entity. The Supervisor of Elections position was not on the 2010 ballot.

Beginning August 11, 2010, and up to the August 24, 2010, primary election, the Elections Office disseminated radio and television advertisements informing voters about the upcoming election and encouraging them to vote. The ads provided basic information about the three ways to vote – at the polls, absentee voting, and early voting – and relevant dates and times. Some ads gave specific early voting locations and reminded voters to bring photo identification. Some ads mentioned that there were “important races” on the ballot, and one included the line, “If you don’t vote, they can’t hear you.” *Id.* Edwards speaks in all of the advertisements and identifies herself by name and as the Supervisor of Elections. In the

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1 television ad in the Commission's possession, Edwards appears and her name is displayed at the
2 beginning and at the end for a total of approximately 10 seconds of a 30-second ad. *See*
3 <http://goo.gl/9SYbg>. She speaks throughout the ad. *Id.*

4 Edwards and the Committee ("Edwards") respond that Florida law and regulations
5 require Edwards to give non-partisan and unbiased information to voters. Specifically, Edwards
6 cites to Florida Department of State, Division of Elections Rules 1S-2.033(4)(b)(2009), which
7 states: "A county supervisor of elections shall: ... Participate in available, radio, television and
8 print programs and interviews, in both general and minority media outlets, to provide voting
9 information."

10 Edwards maintains that past "public service announcements" ("PSAs") have been similar
11 or identical to the 2010 ads and that the Elections Office spent the same amount of funds in 2010
12 as in past years. Edwards, in a news interview, said the ads cost \$14,500.

13 **B. Legal Analysis**

14 The complaint alleges that the ads constitute coordinated communications because they
15 meet all three prongs of the Commission's coordination regulations and, thus, resulted in the
16 Elections Office making prohibited corporate in-kind contributions to Edwards and the
17 Committee totaling \$14,500. Pulk County's incorporated status is the basis for complaint's
18 allegation that the Elections Office made, and Edwards and the Committee accepted, prohibited
19 corporate in-kind contributions. The complaint also alleges that Edwards and the Committee
20 failed to report the in-kind contributions.

21 The Commission exercises its prosecutorial discretion and dismisses this matter due to
22 the nature of the communications at issue. Here, Edwards and the Elections Office disseminated
23 voter education PSAs that strictly adhered to Edwards's official duties as Supervisor of

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1 Elections. Moreover, Florida law requires that the Supervisor engage in such activities, and none
2 of Edwards's statements promotes or even mentions her candidacy for federal office. Indeed, the
3 content of her PSAs appears to be less candidate-focused than another matter that the
4 Commission dismissed involving an officeholder who made communications while
5 simultaneously running for federal office. In MUR 5770 (Laffey), City of Cranston Mayor and
6 federal Senate candidate Laffey mailed a cover letter along with yearly property tax bills to city
7 residents that, among other things, listed the accomplishments the City achieved while he was
8 Mayor. Although the letter arguably constituted a coordinated communication, the Commission
9 exercised its prosecutorial discretion and dismissed the matter, citing the nature of the
10 communication and the low dollar amount involved (\$3,366). *See* MUR 5770 (Statement of
11 Reasons). By contrast, Edwards did not discuss her accomplishments in the PSAs as Laffey did
12 in his letter. Instead, the PSA squarely focuses on her official duties as mandated by Florida law.
13 *But see* MUR 5815 (Madrid) (Commission found reason to believe that public information
14 mailer regarding suspected meth labs sent by Attorney General/House candidate Madrid
15 constituted a coordinated communication and authorized an investigation; after investigation, the
16 Commission found conduct prong not satisfied and took no further action).

17 Recently, in MUR 6020 (Pelosi), the Commission determined in a similar case that even
18 if a 501(c) group's advertisement featuring then-House Speaker and candidate Nancy Pelosi and
19 former Speaker Newt Gingrich satisfied the Commission's coordination standard, the exercise of
20 prosecutorial discretion warranted a dismissal. MUR 6020 (Pelosi) (Statement of Reasons of
21 Walther, Petersen, Bauerly, Hunter and McGahn). The Commission noted that the respondent
22 chose Pelosi and Gingrich for the ad to be humorous and show bipartisanship, and the purpose of

1 the ads was to further the 501(c) group's goal of focusing public attention on the policy issue of
2 climate change, not on Pelosi's role as a candidate. *Id.* at 5-6.

3 Here, there are a number of factors supporting dismissal of this matter. The Elections
4 Office has apparently prepared "similar or identical" ads in the past. The purposes of the ads
5 appear to be to inform voters about voting locations, times, identification requirements, and early
6 voting/absentee voting options, and to encourage participation. The ads do not focus on
7 Edwards's role as a federal candidate and do not appear to contain any electoral content
8 regarding her candidacy. Although she is not required to appear in the ads herself, a state
9 regulation requires Edwards, as the Supervisor of Elections, to educate voters through "available
10 radio, television and print programs" to provide voting information. Under these circumstances,
11 including the nature of the communications, the Commission has determined to exercise its
12 prosecutorial discretion, dismiss the complaint in this matter, and close the file. *See Heckler v.*
13 *Chaney*, 470 U.S. 821, 831 (1985).

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